

Deposition of Douglas Earl Klint - 10/29/2010

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
NO.: 3:10-CV-125

TAMMY LOU FONTENOT, as )  
Administratrix of the Estate )  
of DARRYL WAYNE TURNER, )  
deceased, )

Plaintiffs, )

-vs- )

TASER INTERNATIONAL, INC., )  
Defendant. )

ORAL AND VIDEOTAPED DEPOSITION OF  
DOUGLAS EARL KLINT  
Phoenix, Arizona  
October 29, 2010  
10:18 a.m.

REPORTED BY:  
Jacquelyn A. Allen, RPR  
AZ Certified Reporter No. 50151

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1 defendant TASER International, Incorporated.

2 THE VIDEOGRAPHER: Thank you.

3 Would the reporter please swear in the witness.

4

5 DOUGLAS EARL KLINT,

6 called as a witness herein, having been first duly

7 sworn, was examined and testified as follows:

8

9 E X A M I N A T I O N

10 BY MR. BURTON:

11 Q. And could you state your complete name for the  
12 record, please.

13 A. Douglas Earl Klint.

14 Q. And what is your current position, job title,  
15 with TASER International, Inc.?

16 A. President and general counsel.

17 Q. And I understand, Mr. Klint, that you're an  
18 attorney and that you advise TASER on legal matters.  
19 I'm an enthusiastic supporter of the attorney/client  
20 privilege, and I certainly want to respect it in the  
21 course of the deposition here today. So to the extent,  
22 you know, you can, sort of help me do that as I ask you  
23 questions. I know there's meetings with a lot of  
24 people, and if we can get, you know, the borders set as  
25 we go through the questioning, and feel free to kind of

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1 (Recessed from 12:33 p.m. until 12:53 p.m.)

2 THE VIDEOGRAPHER: This is the beginning of  
3 tape number 3 of the video deposition of Douglas Klint.  
4 The time is 12:53 a.m. -- I'm sorry, p.m. -- 12:53 p.m.

5 Q. BY MR. BURTON: Mr. Klint, now I'd like to  
6 switch to the other area, which is warnings. And when  
7 did you first become involved in the product warnings?

8 A. Probably soon after I joined TASER.

9 Q. And have you been involved in the product  
10 warnings ever since?

11 A. I have.

12 Q. My first question to you is, at any time prior  
13 to the date of this incident, which is March 20th, 2008,  
14 did TASER warn its users that applying dart mode to the  
15 chest of a human being could potentially cause a cardiac  
16 arrest?

17 A. We did not.

18 Q. Did -- at any time prior to March 20th, 2008,  
19 did TASER ever warn that a longer-duration exposure  
20 would raise the risk of causing a cardiac arrest?

21 A. My recollection is that we had a warning to  
22 minimize extended durations. I don't recall  
23 specifically when that warning was added.

24 Q. And what was the logic behind that warning?

25 A. The logic behind that warning was that our

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1 objective with our police officers is to encourage them  
2 to use the minimal force necessary in using the TASER  
3 device to control a criminal suspect, and we were seeing  
4 situations in the field where officers were holding the  
5 triggers down for a long period of time. Sometimes they  
6 weren't even aware they were doing it.

7 And we wanted to remind them that they should  
8 be only using the amount of force necessary and warning  
9 against -- encouraging them to minimize the amount of  
10 duration was consistent with that.

11 Q. Was the thinking that by minimizing the extent  
12 of duration, or warning to minimize the extent of  
13 duration, that that would minimize the risk of causing  
14 cardiac arrest?

15 A. No, that was not a consideration.

16 Q. And I think this goes from -- follows from your  
17 prior answer, but I just would like to get a separate  
18 answer on it: Prior to March 20th, 2008, TASER did not  
19 warn that decreasing the distance from the dart to the  
20 heart could increase the probability of cardiac arrest;  
21 is that correct?

22 A. That decreasing the distance from heart to dart  
23 would increase the probability of cardiac arrest?

24 Q. Well, let -- or -- right. TASER did not warn  
25 about that?

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1 A. No, we did not warn about that.

2 Q. Or the converse, increasing the distance from  
3 the dart to the heart would decrease the risk of cardiac  
4 arrest?

5 A. Right, and the answer to that is no.

6 Q. Now, this has to do with a feature of the X26  
7 which you just referred to, which is that if the trigger  
8 is held down by the operator, the discharge continues  
9 until the trigger is released past the five-second  
10 cycle. Were you ever party to a discussion in your  
11 company about the feasibility of changing that feature  
12 so that it would automatically shut off after five  
13 seconds?

14 A. It has come up for discussion. I can't tell  
15 you specifically when. It was quite a while ago.

16 And the concern expressed by our Training  
17 Advisory Board and by our training staff was that  
18 putting any kind of automatic cutoff on would put law  
19 enforcement officers at risk when they're subduing a  
20 violent criminal suspect.

21 Q. Was there a discussion that the -- at least one  
22 version of your -- I guess your erstwhile competitor,  
23 Stinger system, had that feature?

24 A. I was aware that they were advertising that  
25 feature. I don't have any personal knowledge whether or

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1 chest.

2 MR. BURTON: Okay, thank you.

3 Now, let me go ahead at this point and mark as  
4 Exhibit 3, it's a memo that was put out October 15th,  
5 2009.

6 (Marked for identification Deposition  
7 Exhibit 3.)

8 Q. BY MR. BURTON: Mr. Klint, are you familiar  
9 with this memo?

10 A. Yes, I am.

11 Q. Do you know who wrote it?

12 A. I believe we all had a hand in writing it. I'm  
13 not sure if I was the primary author on this document or  
14 not, but I may have been.

15 Q. When you say "we" all had a hand in it, could  
16 you just list everybody who had a hand in it?

17 A. I believe our litigation team did, Rick Smith  
18 probably had a hand in writing this, or reviewing it and  
19 editing it. And those would be the people that I'm --  
20 oh, and Rick Guilbault also.

21 Q. And he's the signatory?

22 A. Correct.

23 Q. I'd like to just ask you about a few of the  
24 passages in here. It says, "Why was the preferred  
25 target zone changed? The answer ... has less to do with

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1 TASER device can cause ventricular fibrillation or  
2 cardiac arrest.

3 Q. So you do believe, at least as of the time that  
4 this memo came out, that a TASER shot to the chest of a  
5 human being can result in cardiac capture?

6 A. Yes.

7 Q. But is it your understanding that regardless of  
8 the length of time that the TASER is discharged, that  
9 cardiac capture cannot turn into ventricular tachycardia  
10 or ventricular fibrillation?

11 MR. BRAVE: Objection; form.

12 THE WITNESS: I'm not a medical expert, but  
13 based on the advice that we have received from people  
14 knowledgeable in this area, that it's our belief that  
15 you would have to be out -- you'd have to have a very  
16 high rate of capture for approximately 90 seconds or  
17 more before capture could deteriorate to ventricular  
18 fibrillation.

19 Q. BY MR. BURTON: Is that based on research --  
20 recent research performed by Dr. Kroll?

21 A. In part, yes.

22 Q. Now, if we go to the next page, it says -- it's  
23 a question: "Can I still deploy my TASER ECD into the  
24 chest?" Then there's an answer, "Yes." This is the  
25 language that you were referring to earlier in your

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1 CERTIFICATE

2 I, Jacquelyn A. Allen, Certified Reporter for  
3 the State of Arizona, certify:

4 That the foregoing deposition was taken by  
5 me; that I am authorized to administer an oath; that  
6 pursuant to A.R.S. Section 41-324(B), the witness before  
7 testifying was duly sworn by me to testify to the whole  
8 truth; that the questions propounded by counsel and the  
9 answers of the witness were taken down by me in  
10 shorthand and thereafter reduced to print by  
11 computer-aided transcription under my direction; that  
12 deposition review and signature was requested; that the  
13 foregoing pages are a full, true, and accurate record of  
14 all proceedings and testimony had upon the taking of  
15 said deposition, all to the best of my skill and  
16 ability.

17 I FURTHER CERTIFY that I am in no way related  
18 to any of the parties hereto, nor am I in any way  
19 interested in the outcome hereof.

20 DATED at Phoenix, Arizona, this 3rd day of  
21 November, 2010.

22  
23

24 JACQUELYN A. ALLEN, RPR  
Certified Reporter No. 50151  
For the State of Arizona

25